

1 THOMAS M. FERLAUTO (SBN 155503)
2 LAW OFFICE OF THOMAS M. FERLAUTO, APC
3 25201 Paseo de Alicia, Suite 270
4 Laguna Hills, California 92653
5 Telephone: 949-334-8650
6 Fax: 949-334-8691
7 Email: TMF@lawofficeTMF.com
8 Attorney for Plaintiff, JOSHUA ASSIFF

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 **JOSHUA ASSIFF,**

12 **Plaintiff,**

13 **v.**

14 **COUNTY OF LOS ANGELES;**
15 **SHERIFF DEPUTY BADGE**
16 **NUMBER 404532;**
17 **And DOES 1 through 10,**

18 **Defendants.**

Case No. 2:22-cv-05367 RGK (MAAx)

**MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO
DEFENDANTS' MOTION IN LIMINE
#8**

Action Filed: August 3, 2022
Pretrial Conference: July 10, 2023
Trial Date: July 25, 2023

Assigned to: Hon. R. Gary Klausner,
District Judge, Courtroom 850

20
21 Plaintiff, JOSHUA ASSIFF (hereinafter "Plaintiff") hereby respectfully
22 submits the following memorandum of points and authorities in opposition to
23 Defendants' motion in limine #8 to preclude any "evidence, references, argument
24 and testimony by Plaintiff JOSHUA ASSIFF and his counsel to Plaintiff's youth or
25 immaturity."

26 ///

27 ///

28 ///

I. INTRODUCTION

Plaintiff is a 21-year old black male and a student at Antelope Valley College where he plays basketball. Plaintiff was driving from his home to a teammate's house in order to carpool to basketball practice. For no apparent reason and without probable cause, KELLY, a male Caucasian motorcycle Sheriff deputy, pulled Plaintiff over. For no apparent reason and without probable cause, KELLY – as well as other deputies who subsequently responded to the call – all tasered, choked, pepper sprayed, beat and arrested Plaintiff. Plaintiff has asserted the First Cause of Action against KELLY for violation of 42 USC § 1983 (arrest without probable cause and with excessive force).

At the time of the incident, Plaintiff was 20.

II. THIS MOTION SHOULD BE DENIED

Defendants argue that evidence of Plaintiff “youth or immaturity” should be precluded. However, *Defendants fail to cite to any authority for the proposition that such general background information should be withheld from the jury.* This information is relevant for the jury to understand the general context in which the incident occurred, as well as relevant to the calculation of damages. Future suffering must be based upon Plaintiff's future anticipated life span which of course must be determine by Plaintiff's current age.

III. THIS MOTION IS VAGUE AND AMBIGUOUS AS TO WHAT EVIDENCE IT REFERS TO, AND SHOULD BE DENIED

Defendants argue that evidence of Plaintiff “youth or immaturity” should be precluded. However, it is unclear what evidence this motion refers to. It could arguably apply to references to the fact that Plaintiff is a student and was on his way to basketball practice. Thus, any order based upon this motion would be fatally vague, and Plaintiff would not know how to comply with the order or what might violate it.

1 **IV. CONCLUSION**

2 For the reasons set forth above, this motion should be denied.

3
4 DATED: June 30th, 2023

The Law Office Of Thomas M. Ferlauto, APC

5
6 By:  _____

7 Thomas M. Ferlauto

8 Attorney For: Plaintiff, JOSHUA ASSIFF
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28